

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE

ANTHONY, INC.,	)	
	)	
Plaintiff,	)	Case No. 3:05-MC-31
	)	Jordan/Shirley
v.	)	
	)	
JERRY WHEELER, et al.,	)	Underlying Action No. 3:05-0341
	)	(M.D. Tenn.)
Defendants.	)	

**ORDERS RE PRODUCTION OF DOCUMENTS AND DEPOSITIONS**

On September 21, 2005, the Joint Motion For Protective Order of Gemtron Corporation, Mark Delp, and Abe Albrecht came on regularly for hearing before the Honorable C. Clifford Shirley, Jr., United States Magistrate Judge Presiding. Anthony, Inc.'s Motion To Transfer Determination Of The Gemtron Witnesses' Motion For Protective Order ("Motion To Transfer") also came on regularly for hearing. Steven E. Kramer and Charles E. Young, Jr. of Kramer, Rayson, Leake, Rodgers & Morgan LLP appeared on behalf of Gemtron Corporation, Mark Delp, and Abe Albrecht. John A. Graham of Jeffer, Mangels, Butler & Marmaro LLP and Chris Vlahos of Bowen Riley Warnock & Jacobson appeared on behalf of Plaintiff, Anthony, Inc.

The Court considered all Memorandums and declarations submitted in support and opposition to the aforesaid motions, and after being fully advised by counsel, the Court orally stated its findings of fact and conclusions of law in open court which were duly reported. Based upon the Court's findings and conclusions, and good cause appearing, it is

**ORDERED** that the Custodian of Records of Gemtron, Mark Delp, Abe Albrecht, Tim Dye, and Larry Willis, (the "Gemtron Witnesses") shall produce the following documents in accordance with the previously served subpoenas and the included definitions and instructions, as modified by this Order. By its signature to this Order, counsel for Gemtron agrees on behalf

of Tim Dye and Larry Willis, that these two individuals shall be deemed served with subpoenas in the same form as previously served upon Mark Delp, and said individuals accept service of said subpoenas through counsel, and agree to be bound by the terms of this Order.

The categories and description of documents to be produced are set forth below in numbered ordered and track the paragraph numbers contained in the previously served subpoenas so as to reflect the Court's ruling with respect to each document request contained in the subpoenas. The Court's deletion or limitation on the production of documents is made without prejudice to Anthony's right to seek production of additional documents at a later time, and without prejudice to the Gemtron Witnesses' right to oppose such production.

Unless otherwise specified, the document requests require the Gemtron Witnesses to produce all responsive documents and information in their possession, custody or control that (i) were prepared or which reflect events which occurred between June 1, 2004 and the present; and (ii) appertain to, or have a nexus and/or relationship to Jerry Wheeler.

The term "known customers of Anthony, Inc." shall mean those customers which the Gemtron Witnesses or Jerry Wheeler knew were existing customers of Anthony, Inc. or understood to be existing customers of Anthony, Inc.

Where applicable, if a known customer of Anthony, Inc. was also a pre-existing customer of Gemtron during the period of June 1, 2003 through June 1, 2004, then the documents reflecting communications between the Gemtron Witnesses and the pre-existing customer need not be produced.

#### **DOCUMENTS TO BE PRODUCED**

1. ~~All marketing plans relating to glass doors or glass used for refrigeration doors;~~
2. ~~All marketing materials relating to glass doors or glass used for refrigeration doors;~~

3. All documents reflecting solicitations or sales efforts directed toward any known customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon;
4. All documents reflecting communications between and among you and Jerry Wheeler;
5. All documents reflecting communications between and among you and any known customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon;
6. Any and all communications by and between Jerry Wheeler and any person or entity, whether vendor, known customer of Anthony, Inc., or any other person or entity in the glass door industry, including without limitation Master-Bilt and Aislacon;
7. All plans, drawings and diagrams relating to glass doors for any known customers of Anthony, Inc., including Master-Bilt and Aislacon;
8. All documents relating to any meetings involving Jerry Wheeler and any known customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon, and all documents relating to any meetings involving Gemtron and any known customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon;
9. All documents relating to travel involving Jerry Wheeler or Gemtron and any known customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon;
10. All documents involving Jerry Wheeler and relating to any products or proposed products discussed by Wheeler or Gemtron with any known customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon;
11. All documents reflecting or relating to any specifications, design criteria, dimensions or electrical needs involving Jerry Wheeler or Gemtron for products or proposed products for any known customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon;
12. All documents reflecting or relating to any pricing or proposed pricing for any products or proposed products for Master-Bilt and Aislacon
13. ~~All documents reflecting or relating to any quantities or purchasing volumes for any products or proposed products for any and all customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon;~~
14. All documents prepared by or for Gemtron reflecting or relating to any drawings, specifications or design criteria for any known customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon;
15. ~~All documents reflecting or relating to any specifications or design criteria for any and all customers of Anthony, Inc., including without limitation Master-Bilt and Aislacon;~~
16. All model or sample glass doors designed by or for Gemtron for any known customers of Anthony, Inc., including Master-Bilt and Aislacon;

17. All prices quoted by Jerry Wheeler and/or quoted by or for Gemtron to any known customers of Anthony, Inc., including Master-Bilt and Aislacon;
18. All documents relating to any and all sales calls of Jerry Wheeler;
19. All documents relating to any and all solicitations by Jerry Wheeler;
20. All documents relating to any and all sales calls by or for Gemtron to any and all known customers of Anthony, Inc., including Master-Bilt and Aislacon;
21. All documents relating to any and all solicitations by or for Gemtron, whether direct or indirect, of any known customers of Anthony, Inc., including Master-Bilt and Aislacon;

Electronic documents and emails shall be produced in electronic form.

#### **DEPOSITION SCHEDULE**

Counsel for the Gemtron Witnesses and counsel for Anthony, Inc. shall select mutually agreeable dates spanning 3½ days for the depositions of Mark Delp, Tim Dye, Abe Albrecht, and Larry Willis, with the order of the examinations to be set by counsel for Anthony, Inc. The depositions shall be conducted in Knoxville, Tennessee. The foregoing schedule is without prejudice to Anthony, Inc. to seek further time for examination of these witnesses, and without prejudice to the Gemtron Witnesses to oppose further time for the examinations. This Order is also without prejudice to Anthony's right to subpoena additional witnesses in the future and without prejudice to Gemtron or future third party witnesses to oppose additional subpoenas or discovery.

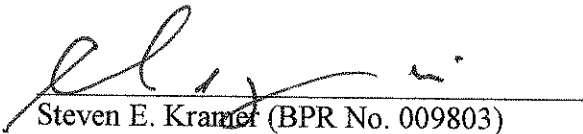
Copies of the documents to be produced pursuant to this Order shall be produced to counsel for Anthony, Inc. sufficiently in advance of the scheduled depositions to allow

reasonable preparation for the depositions.

ENTERED this \_\_\_ day of October, 2005.

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge  
C. Clifford Shirley, Jr.  
United States Magistrate Judge

Approved as to Form and Content:



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